80-5427

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

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SUPREME COURT, U.S.

October Term, 1980

Daniel Carl Roberts
Appellant

vs.

C.W. McCoy,
THE CITY OF DALLAS, TEXAS, ~~ROBERT POLSOM, ADLENE HARRISON, L. A. MUKR, ROSE RENFROE, WILLIAM F. NIGOL, JOHN LEEDOM, RICHARD SMITH, WILLIAM COTHRUM, JUANITA CRAFT, LUCY PATTERSON, BILL BLACKBURN~~, GEORGE SCHRADER, ~~C. W. McCOY~~, DON CLEVELAND
Appellees

ON APPEAL
FROM THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JURISDICTIONAL STATEMENT

Daniel Carl Roberts, Appellant
P.O.Box 5061
Richardson, Texas 75230

September 14, 1980

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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1980

DANIEL CARL ROBERTS
Appellant

v.

THE CITY OF DALLAS, TEXAS, ROBERT FOLSOM, ADLENE HARRISON, L. A. MURR, ROSE RENFROE, WILLIAM F. NICOL, JOHN LEEDOM, RICHARD SMITH, WILLIAM COTHRUM, JUANITA CRAFT, LUCY PATTERSON, BILL BLACKBURN, GEORGE SCHRADER, C. W. McCOY, DON CLEVELAND
Appellees

JURISDICTIONAL STATEMENT

Appellant appeals from the judgement of the Court of Appeals for the Fifth Circuit dated June 24, 1980, dismissing an appeal from the District Court for the Northern District of Texas, Dallas Division, and submits this Statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented.

OPINIONS BELOW

The opinion of the Court of Appeals for the Fifth Circuit is reported at Fed. R. App. P. 34 (a); 5th Cir. R. 18 with copy of judgement attached in appendix hereto. Copies of findings of fact, conclusions of law and judgement of the District Court for the Northern District of Texas, Dallas Division, are hereto attached in appendix.

JURISDICTION

The judgment of the Court of Appeals for the Fifth Circuit dismissing appeal was entered on June 24, 1980. The opinion of the District Court, Northern District of Texas, Dallas Division, dismissing appeal, was rendered on December 20, 1979.

A notice of appeal to this Court was filed in the Court of Appeals for the Fifth Circuit within 90 days of the date of the Fifth Circuit Court of Appeals' ruling on the petition for appeal and was filed on July 30, 1980.

This appeal is being docketed in this Court within 60 days of the above filing. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28, United States Code, Section 1253 and Title 28, United States Code, Section 2106. However, should the Court hold otherwise, appellant respectfully requests that this petition for review and redress be treated as a petition for certiorari pursuant to Title 28, United States Code, Rule 19 or Title 28, United States Code, Section 1954 (1).

QUESTIONS PRESENTED

1. Whether the administration of justice should be subject to a more exacting level of Equal Protection scrutiny than the present judicial system allows.
2. Whether constitutional violations and denial of trial hearing rights, which affect individuals' relations with other countries, can be permitted in the United States in order to maintain global and political appearances.

CONSTITUTIONAL PROVISIONS, STATUTES, RULES, TREATY

United States Constitution

Article VI, Section 2

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State in the Contrary notwithstanding.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Fourteenth Amendment, Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Fourteenth Amendment, Section 5

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

United States Code:

Title 18, U.S.C.A., Section 241

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United State , or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured--

They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

Title 42, U.S.C.A., Section 1983

Every person who, under color of any statue, ordinance, regulation, custom or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Title 42, U.S.C.A., Section 1985, Clause 3

(3) If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be

...ose, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

RULE

City of Dallas, Guidelines for Employee Discipline

C. Suspension, Demotion and Discharge

1. In the event the supervisor considers it necessary to suspend, demote or discharge the employee, the supervisor should recommend such action, to the next higher level of management together with the reasons therefor. An investigation should be made in which the employee is given the opportunity to respond to the charges to the department head or his designated assistant. After determining that the facts and circumstances of the particular case do warrant such action, the department head, or his designated assistant, will give the employee a written notice stating:

   a. the cause for the action, specifically what the employee did, including date, time and place.

   b. The rules, policies or procedures violated;

   c. Previous related disciplinary action, if any;

   d. The action being taken;

TREATY

Universal Declaration of Human Rights

Article 8:

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law.

Article 10:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

On September 29, 1976, Dallas city authorities swore to preserve, protect, and defend the Constitution and Laws of the United States and on September 29, 1976, and on October 1, 1976, appellant was subjected to trial and tribunal conducted, judged, and prosecuted by Dallas city authorities.

Appellant was specifically charged at this trial with "Going to the Press." The Dallas city authorities obtained as their witnesses members of the press to confront appellant with the charge of "Going to the Press." Dallas city authorities did obtain as their witnesses reporters Steve Israel and Kit Bauman from the Dallas Times Herald, an institution of the press, to prove the charge of "Going to the Press." The Dallas city authorities did prove the charge of "Going to the Press." Ipso facto, appellant was charged at this trial with "Going to the Press."

Witnesses to this trial and to the charge against the appellant of "Going to the Press" were news reporters Bob Sirkin, Steve Israel, Kit Bauman, Henry Tatum and the court reporter Sondra Cargle.

Relevant and prior to this trial, and on May 26, 1976, a tornado proved that there were no operational Dallas Civil defense missions and no operational emergency preparedness functions and missions in Dallas, Texas, and for which the incumbent Dallas city authorities were responsible. The tornado also proved that there had been no operational Dallas civil defense missions and no operational emergency preparedness functions and missions for the preceding 17 years and for which federal funds had been accepted by Dallas authorities and officials.

Not one of the responsible Dallas city authorities disqualified himself or herself at an organized meeting, and, by resolution, at this organized meeting, they did choose two of their own members and they did choose the director of Defense Civil Preparedness to serve as judges and

tribunal of appellant who had been and was critical of malfeasance associated with civil defense and defense civil preparedness emergency functions and missions.

By virtue of their past responsibilities and their political images Dallas city authorities were constitutionally disqualified as judges and tribunal. By virtue of his job with the Dallas office of the United States Defense Civil Preparedness Agency, it was politically expedient for local director, John J. De La Garza to suppress all information of malfeasance associated with the Defense Civil Preparedness Agency which has provided financial payments and financial grants to the Dallas city authorities to put into operation the National Civil Defense Program in accordance with the Federal Civil Defense Act of 1950 and Executive Order 10952 of July 20, 1961, and Executive Order 11795 of July 11, 1974, and John J. De La Garza was also constitutionally disqualified to serve as judge and tribunal of the appellant who had been and was critical of malfeasance associated with civil defense and defense civil preparedness emergency functions and missions.

Relevant and prior to this trial and in 1959 a siren warning system was installed by the Dallas city authorities with federal funds for the expressed mission, "to provide protection from tornados and potential enemy attack with an early alert."...(Emphasis "early alert".) Biennial Report, City of Dallas, Texas (1958 - 1960).

Relevant and pertinent to this trial at all times was the fact that Dallas city authorities had made representations for federal funds and had received federal funds for the purported purposes of developing and executing certain programs to carry out the missions and operations of the Defense Civil Preparedness Agency so as to provide an effective and viable National Civil Defense Program.

In the achievement of total disaster preparedness such federally funded missions included:

> "Steps to alert the population of enemy attack upon the United States." (Emphasis "alert".)
>
> All functions pertaining to civil defense communications, including an appropriate warning network..." (Emphasis "warning".)
>
> "Protection and emergency operational capability of State and local governments..." (Emphasis "protection, emergency, operational...")
>
> "Use of a civil defense communications system for warning the affected population of impending natural disasters." (Emphasis "warning...natural disasters".)
>
> "Providing planning assistance to State and local governments in their development of preparedness plans and capabilities." (Emphasis "preparedness plans", ... "capabilities".)
>
> "DCPA (Defense Civil Preparedness Agency) is also responsible for supporting programs including ... emergency public information". (Emphasis "emergency public information".)
>
> "Financial assistance includes matching funds with State and local governments up to 50 percent of the costs for, among other things; constructing Emergency Operating Centers; procurement of communications and warning and other emergency equipment; personnel and administration costs of State and local civil defense programs; student travel and per diem expenses for training in civil defense management skills at the DCPA Staff College; and education and training courses conducted by local governments for their emergency personnel." U. S. Government Manual, Defense Civil Preparedness Agency.

Relevant and pertinent to this trial at all times, the Dallas city authorities, including the mayor and city council, had made the following claims:

> "Civil Defense protects persons and property from harm due to man-made or natural disasters through equipment, supplies, and the maintenance of emergency equipment, supplies, and warning systems... (Emphasis "protects", "natural disasters", "warning".)
>
> "The (Civil Defense) office...in the event of an emergency will function twenty-four hours a day as long as necessary." ANNUAL BUDGET, City of Dallas.

Federal funds had been granted and federal funds and local tax money had been spent on these claims of the Dallas city mayor and Dallas city council.

Relevant, prior to trial and in violation of due process, the Dallas city authorities did plant false information in local newspapers and in order to discredit appellant, the Dallas city authorities did invade private and confidential medical history of appellant and did plant in local newspapers malicious, libelous, and defamatory remarks, and to which appellant's rights to sue were suppressed.

THE QUESTIONS ARE SUBSTANTIAL

A

PROSECUTION, TRIAL AND CHARGE FOR "GOING TO THE PRESS" AND THE INTRODUCTION OF PROOF, EVIDENCE AND WITNESSES, RELEGATES "GOING TO THE PRESS" A CRIME.

The issues involved in this appeal are multitudinous.

First, there are no precedents in the United States for prosecution, charge, trial and tribunal for "Going to the Press."

Beyond any doubt the charge of "Going to the Press" is an abridgement of free access to the press and is repressive of communication with the press.

The charge by the Dallas city authorities of "Going to the Press" decidedly restricts and suppresses freedom of opinion and expression with the press and definitely interferes with the freedom to seek and receive information, to discuss ideas and to give and exchange opinions to members of the press.

Because the charge of "Going to the Press" is specifically directed to contact with the Press the charge is repugnant to the Freedom of the Press clause of the First Amendment. Also, as the charge of "Going to the Press" does abridge communication with the press, the charge is repugnant to the Freedom of Speech clause of the First Amendment. As the charge of "Going to the Press" does curtail and does infringe upon contact with people the charge is repugnant to the peaceful assembly clause also of the First Amendment.

If the appellant had not "Gone to the Press" there would have been no trial, no tribunal, no prosecution, no charge, no proving of the charge, no evidence of the charge, and no witnesses presented to prove the charge of "Going to the Press." Therefore, the appellees stand in violation of Title 18, U.S.C.A., Section 241:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same: or
>
> If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment or any right or privilege so secured--
>
> They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

The remarks made by the Dallas assistant city manager Don Cleveland to Phil Clements about the arranged verdict, the false information to the press by appellees, the perjury of the appellees recorded by reporters, the suppression of evidence, the violations of due process and the defamatory remarks of Don Cleveland printed in the Dallas Times Herald of July 30, 1976, confirm conspiracy of appellees to injure, oppress and intimidate appellant because of his having exercised rights and privileges of "Going to the Press" and of access to the press secured to him by the Constitution and laws of the United States, and on matters not involving national security, included in the First Amendment:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievences.

The appellees did conspire to oppress and to intimidate appellant for his having "Gone to the Press" with subjecting him to trial, tribunal, prosecution, and charge, and they did conspire to deprive appellant of a liberty of employment, property of reputation, of due process and no protection of the laws in violation of the Fourteenth Amendment, Section 1.

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall

> abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

On this count of conspiracy prosecution is invoked.

Congress is invoked to punish appellees pursuant to the Fourteenth Amendment, Section 5.

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Congress may punish "all conspiracies - that interfere with Fourteenth Amendment rights." U.S. v Guest, 383 U.S. 745 (1966).

The appellees did cause appellant to be subjected to the deprivation of privileges and immunities including access to the press, an impartial trial and tribunal, liberty of employment, property of reputation, due process of law, and the equal protection of the law secured by the Fourteenth Amendment, Section 1, supra.

Redress is invoked pursuant to Title 42 U.S.C.A., Section 1983:

> Every person who, under color of any statue, ordinance, regulation, custom, or usage, of any State or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity, or other proper proceeding for redress.

Redress is further invoked pursuant to Title 42 U.S.C.A., Section 1985, Clause 3:

> (3) If two or more persons in any state or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection

> of the laws; or if two or more persons conspire to prevent by force, intimidation or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

The mayor and the Dallas city council, all politicians, had made claims for and on behalf of Dallas civil defense emergency preparedness functions and missions, were responsible for same, and it being to their political advantage to divert attention from and to cover up malfeasance to protect their political images, they, the Dallas mayor and the Dallas city council were constitutionally prejudiced, constitutionally not impartial, and constitutionally not capable of judging particular controversy fairly on basis of their own circumstances and consequently they were in violation of the due process guarantees of the Fifth Amendment:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The denial of a fair and impartial trial and tribunal is also in violation of the Sixth Amendment:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

The denial of a fair and impartial trial and tribunal is also a denial of "due process of law" demanded by the Fifth Amendment and the failure to strictly observe these constitutional safeguards renders the trial and tribunal illegal and redress is asked.

> When a man's reputation and livelihood are put in jeopardy, he is entitled to a completely impartial tribunal. City of Anderson v State ex rel. Page, Ind. App. 1979, 397 N.E. 2d 615

With the stigma resulting from defamatory remarks and false information to the press before trial made by the Dallas city authorities in violation of due process and by the much publicized trial and tribunal broadcast over television and written in newspapers, appellant was deprived of a liberty right under Amendment 14, Section 1, supra.

> Under the "Stigma-plus test, if state deprives one of weighty interest, e.g. employment, in connection with imposition of some stigma, that person's liberty has been "taken" for procedural due process purposes. Victor v Brickley, D.C. Mich. 1979, 476 F. Supp. 888.

> Deprivation of accused's absolute right to a fair and impartial trial reduces process of law to a mere sham and destroys hope of fundamental fairness and undermines provision of this Amendment. People v. Whitmore, 1965, 257 N.Y.S. 2d 787, 45 Misc. 2d 506

In violation of due process the Dallas city authorities had arranged a pre-determined verdict. Before the last day of the trial Phil Clements called appellant on the telephone to tell him that he, Phil Clements, had talked with the Dallas assistant city manager Don Cleveland who had bragged to him of the pre-arranged verdict.

The remarks made by the Dallas assistant city manager Don Cleveland to Phil Clements about an arranged verdict implicates Don Cleveland and appellees in another count of conspiracy; and Don Cleveland and appellees are in violation of Title 18, U.S.C.A., Section 241, supra.

A pre-arranged verdict is an automatic abridgement of liberties and immunities of citizens and deprivation of such liberties and immunities including liberty and property without due process and denial of equal protection, in violation of the Fourteenth Amendment, Section 1, supra.

Appellant seeks redress under Title 42 U.S.C.A., Section 1983, supra, and he seeks redress under Title 42 U.S.C.A., Section 1985, supra.

On this count of conspiracy Congress is asked to punish appellees pursuant to the Fourteenth Amendment, Section 1, supra. U.S. v Guest, 383 U.S. 745 (1966).

In violation of due process and confirming his constitutional bias to serve as an impartial judge, the director of the local office of the Defense Civil Preparedness Agency, John J. De La Garza, did give his testimony.

In violation of due process the Chairman at this trial did give his testimony by irregular methods. Returning too soon from a recess appellant arrived in time to hear the local director of the federal Defense Civil Preparedness Agency, John J. De La Garza, giving his testimony to other members of the tribunal.

In violation of due process the local director of the federal Defense Civil Preparedness Agency was giving his testimony while the appellant and while the court reporter were out of the room.

In violation of due process the appellant was denied the right of confrontation and cross-examination on the testimony given by the local director of the federal Defense Civil Preparedness Agency.

In violation of due process the missions and the

functions of the Dallas Civil Defense Department to implement the Federal Civil Defense Act of 1950, Executive Order 10952 of July 20, 1961, and Executive Order 11795 of July 11, 1974, and for which federal monies were granted, and specified in the U. S. Govenment Manual, were suppressed.

In violation of due process, the claims for the installation of a siren warning system and specified in the 1958-1960 City of Dallas Biennial Report and other documents, were suppressed.

In violation of due process, the authorization for the Dallas city mayor, the Dallas city manager, and the Dallas Civil Defense director to warn the public of enemy attack or of impending tornados and for which federal funding had been granted, and specified in the City of Dallas Civil Defense Emergency Operations Plan PUBLIC WARNING SYSTEM signed by the Dallas city manager, George Schrader, and other documents, were suppressed.

In violation of due process, one of the three judges, Lucy Patterson, sent someone out of the courtroom to get what she alleged was a copy of the civil defense director's job description. She glanced at it briefly, and then, ignoring written documentation proving otherwise, the judge Lucy Patterson announced that warning the population was not in the Dallas civil defense director's job description.

In violation of due process the appellant was denied right of confrontation and cross-examination of judge Lucy Patterson.

> The scope of judicial review does not include the introduction of new evidence which could have been, but was not presented to appellant. New York v. United States, 331 U.S. 284, 334-336.

The Dallas city authorities were required by their own rules and procedures to meet written requirements from Guidelines for Employee Discipline, City of Dallas, Personnel Department, May 4, 1976:

> ....An investigation should be made in which the employee is given the opportunity to respond to the charges to the department head or his designated assistant. After determining that the facts and circumstances of the particular case do warrant such action, the department head, or his designated assistant, shall give the employee a written notice stating:
>
> a. The cause for the action: specifically what the employee did, including date, time and place.

In violation of these rules and procedures and in violation of due process and the Sixth Amendment, the appellees dismissed appellant by notice before the trial and tribunal without fulfilling their specific written requirements and with terms and references too vague and unspecified to meet the requirements of the Sixth Amendment that the accused "be informed of the nature and cause of the accusation." How can anyone defend against a claim without any firm notion as to what the vague and unspecified terms and references are supposed to mean?

Judge Luther Youngdahl dismissed a similar vague and unspecified charge on the grounds that it was too vague to meet the requirements of the Sixth Amendment that the accused "be informed of the nature and cause of the accusation" against him in order that he might prepare a defense and be protected against subsequent prosecution for the same offense. Judge Luther Youngdahl said:

> "It seems to the court that this charge is so nebulous and indefinite that a jury would have to engage in speculation in order to arrive at a verdict." United States v. Lattimore, 112 F. Supp. 507 (D.D.C. 1953).

During the trial conducted by the Dallas city authorities the appellant was charged with "Going to the Press."

Immediately after the trial the Dallas city authorities insulated themselves from close scrutiny by contriving to

maneuver around the written requirements again in further violation of due process by merely sustaining their previous illegal dismissal. They circumvented due process, under color of law, by formally having "Ordered, Adjudged, and Decreed" that their dismissal be "sustained."

The illegal dismissal subjected appellant to accusations of dishonesty and immorality which were enhanced by extensive television coverage of the trial and tribunal with the Dallas city authorities in the roles of judges.

> For due process purposes, "liberty" may be implicated if charges are leveled against a government employee which might seriously damage his standing and association in the community, such as accusations of dishonesty or immorality, and, also "liberty" may be abridged if the challenged action imposes on the employee or job applicant a stigma or other disability that forecloses his freedom to take advantage of other employment opportunities. Larry v. Lawler, C.A. Ill. 1978 605 F. 2d 954.

See the attached list of 121 corporations and businessmen who refused employment to the appellant.

The City of Dallas Civil Defense Emergency Operations Plan PUBLIC WARNING SYSTEM which authorized the Dallas mayor, city manager and civil defense director to activate the warning system was suppressed at this trial. By comparing it with the news accounts of the trial and tribunal, one can see the evidence of perjury, misrepresentations, and acts of conspiracy to cover up 17 years of federally funded malfeasance duly recorded by Dallas reporters who witnessed the trial and tribunal.

For constitutional violations of privileges and mmunities including violations of due process, appellant seeks redress under Title 42 U.S.C.A., Section 1983, supra, and he seeks redress under Title 42 U.S.C.A., Section 1985, supra.

This type of trial and tribunal and the prosecution on the charge of "Going to the Press" is recognized in Europe and in most other countries of the world as a Human Rights trial. This trial and tribunal and the prosecution of appellant on the charge of "Going to the Press" has been recognized as a Human Rights trial by Europeans.

This trial and tribunal took place in 1976, the year of the Bicentennial Celebration. Because of all the publicity of the Bicentennial Celebration with the many parades, celebrations and pageants all over the nation it became politically expedient to suppress the fact that the Dallas city authorities had subjected appellant to trial and tribunal and had prosecuted him on the charge of "Going to the Press" during the 200th year of the signing of the Declaration of Independence and consequently, the appellant was denied the right of American citizens -- "the right to sue."

While Americans were celebrating the Bicentennial Anniversary of the Declaration of Independence and while the United States was celebrating American freedoms of Access to the Press, Freedom of Expression, Free Speech and Freedom of Association, the Dallas city authorities conducted and judged an unconstitutional human rights trial and tribunal under the deceptive guise of a civil service board hearing.

With intensified world-wide condemnation by President Carter, the U.S. State Department and others, of the Soviet Union and other countries where "Contacting the Press" is a crime, it was politically expedient to suppress the fact that this trial did take place in the United States and in Dallas, Texas. Whether the charge is "Contacting the Press" in the Soviet Union or "Going to the Press" in the United States, the charge is still the same. With the President's forthright championing of human rights in other countries and with the focusing of attention on trials in the Soviet Union, it was politically expedient to suppress the existence of a similar trial and tribunal in Dallas, Texas and in the United States

to the extent of suppressing the rights of appellant including the rights of access to the courts, right to sue, and the right to a hearing on all issues against the Dallas city authorities.

With the exception of two weeks this case was always in the hands of Dallas lawyers and it took over a year to get it filed in U.S. District Judge Robert W. Porter's court.

Because the issues of this case had been suppressed in U.S. District Judge Robert W. Porter's court for another two years, with other cases taking precedence over this one, and because U.S. District Judge Robert W. Porter would not permit the Dallas city authorities who had arranged, conducted, and judged the trial and tribunal, to be named in this suit, the appellant did want to be sure of having a jury trial and he did write U.S. District Judge M. L. Robinson informing her that appellant desired a jury trial and appellant informed U.S. District Judge M. L. Robinson of the issues of this case by sending her a copy of appellant's last letter to his attorneys, dated Sept. 4, 1979, which is herein enclosed, and which, succinctly, states the issues of the case:

> In accordance with your wishes of our last telephone conversation for me to reiterate in my own writing the circumstances of our case against the Dallas city authorities I am enclosing the following information.
>
> As you can see from the newspaper accounts Dallas politicians and city authorities arbitrarily persecuted me and arbitrarily subjected me to a trial and tribunal for Human Rights privileges while arbitrarily no Dallas officials were subjected to trial and tribunal for fraud and malfeasance. This is quite easily evidenced from the news articles written by American reporters at the Human Rights trial and tribunal staged and conducted by Dallas politicians and city authorities in Dallas, Texas in violation of international Human Rights covenants including the Helsinki Accords, the United Nations Charter and the Universal Declaration of Human Rights.
>
> American reporters witnessed and recorded Dallas politicians and city authorities staging and conducting a Human Rights trial in Dallas, Texas. Under the guise of a

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civil service board hearing Dallas politicians staged and conducted a persecutory political trial and tribunal which they, themselves, conducted on their very own arbitrarily improvised and arbitrarily contrived-after-the fact-arbitrary political charges of: 1. making public complaints and 2. going to the press. These arbitrary political charges as well as their being arbitrarily invented after the fact, and the trial and tribunal are all in violation of international covenants and international agreements on Human Rights.

Regardless of how Dallas politicians and city authorities conspire to justify and conspire to cover up and conspire to divert attention, the trial and tribunal did take place. American reporters and other witnesses can testify that this trial and tribunal did take place in Dallas, Texas.

Regardless of how they conspire to rationalize or conspire to bend their legalities to serve their purposes Dallas politicians and city authorities conspired to stage and to conduct a Human Rights trial and tribunal in Dallas, Texas even though these trials and tribunals have been outlawed and condemned in every civilized country of the world. The U. S. Department of State has denounced the Soviet Union, Argentina, Venezuela, Poland and other countries of the world for the same type of trial and tribunal staged and conducted by Dallas politicians and city authorities in Dallas, Texas. Just read the news articles and you see that American reporters witnessed and recorded unlettered, untrained biased politicians acting as judges at a Human Rights trial here in Dallas, Texas. You know yourself that Lucy Patterson and L.A.Murr are politicians and are not legally trained judges. You know yourself that the quasi-literate Lucy Patterson does not even have a law degree and in the articles written by American reporters you see her pontificating as a judge on international issues of Human Rights incorporated by treaty and international covenants including the Helsinki Accords, the United Nations Charter and the Universal Declaration of Human Rights. You know yourself that these trial and tribunal judges had no legal qualifications as judges and you know that they are totally incompetent to judge international issues such as Freedom of Access to the Press, Freedom of Opinion, Freedom of Expression, and Freedom of Speech.

As you are aware, the former head of the Dallas Bar Association, Phil Burleson, has publicly denounced these Dallas trials and tribunals staged and conducted by Dallas politicians as "unconstitutional."

As we know, the Dallas politicians and city authorities are conspiring to cover up and

to divert attention from the trial and tribunal to which they subjected me and for which you are filing suit and which was witnessed and recorded by American reporters in Dallas, Texas. They are conspiring to have retroactively discharged me for other contrived reasons even though American reporters witnessed and recorded my being subjected to a trial and tribunal on their arbitrary political charges of: 1. making public complaints and of 2. going to the press.

Witnesses to the political trial and tribunal to which I was subjected and witnesses to the fact that I was discharged for 1. making public complaints and for 2. going to the press are American reporters Bob Sirkin, Steve Israel, Kit Bauman and Henry Tatum.

Other witnesses to the trial and tribunal and to the fact that I was discharged for 1. making public complaints and for 2. going to the press are Jim Maris, A.L. Hoebeke, Ed Joyce, Jermaine Thomas, Russell Neiderer, Robert S. Sloan, Sondra Cargle, Jerry T. Steed, and John J. De La Garza.

This Human Rights trial was not only written for newspapers but was also broadcast over television so several thousand more witnesses who viewed the trial and tribunal, and the politicians, and the fact that unqualified and inherently politically disqualified judges did discharge me for 1. making public complaints and for 2. going to the press, can be found.

In summation: 1. Dallas politicians arbitrarily did not subject any Dallas official to trial and tribunal for fraud and malfeasance. 2. This trial and tribunal was outlawed by international covenants and agreements and constitutes treaty violations and non-implementation by the United States of America of the Helsinki Accords, the United Nations Charter and the Universal Declaration of Human Rights. 3. Trial and tribunal was rigged in advance. Assistant city manager Don Cleveland implicated politicians Lucy Patterson and L. A. Murr on several counts of conspiracy when he bragged to Phil Clements before the trial was over of the prearranged verdict. 4. Trial board members were incompetent to qualify as judges. 5. Trial board members were politicians and were politically disqualified on several counts. 6. Inventing after-the-fact charges is outlawed. 7. Inventing arbitrary charges is outlawed. 8. Inventing political restraints is outlawed. 9. Persecution by trial is outlawed. 10. American reporters not only caught Dallas politicians and city authorities in Human Rights violations but in acts of conspiracy as well.

This is the gist of our previous conversations over the past year and a half and is submitted to you in my own writing in consonance with your request.

In court, U. S. District Judge M. L. Robinson introduced this letter; she informed the courtroom that she had read it; and Joseph Werner, attorney for the Dallas city authorities, read this letter in court. Consequently, U.S. Judge M. L. Robinson, attorney Joseph Werner, and attorneys for appellant, who had already received and read this letter, were all fully aware of the issues of this case.

To evidence the extreme measures the United States federal authorities collaborated with the Dallas city authorities to conceal the trial and tribunal is that in federal court the existence and the occurrence of the trial and tribunal were suppressed; the prosecution by the Dallas city authorities and the charge of "Going to the Press" were suppressed; the numerous constitutional violations of due process by the Dallas city authorities were suppressed; and U.S. District Judge M. L. Robinson denied the appellant the right to sue on the constitutional issues of this case and U.S. District Judge M. L. Robinson allowed the appellees to ignore all the constitutional issues of this case and U.S. District Judge M. L. Robinson allowed the appellees to prosecute the appellant again for the same offense and for which he had previously been subjected to trial and for which offense the appellees had already proven him guilty of "Going to the Press" and for which now, in appeal in U.S. District Judge M. L. Robinson's court, the appellant was denied hearing rights, evidence, witnesses, and a jury trial.

The Sixth Amendment, supra, was violated by U.S. District Judge M. L. Robinson and the Dallas city authorities by her allowing subsequent prosecution for the same offense in her courtroom by means of the illegal dismissal with terms and references too vague and too unspecified to meet the requirements of the Sixth Amendment that the accused "be informed of the nature and cause of the accusation" against him in order that he might prepare a defense and be protected against subsequent prosecution for the same offense.

Confirming conspiracy was the subsequent prosecution for the same offense with no protection of federal rights in U. S. District Judge M. L. Robinson's courtroom.

> Deprivation of accused's absolute right to a fair and impartial trial reduces process of law to a mere sham and destroys hope of fundamental fairness and undermines provision of this (Fourteenth) amendment. People v. Whitmore, 1965, 257 N.Y.S. 2d 787, 45 Misc. 2d 506.

For the results of the second prosecution, please refer to the Dallas Times Herald news article dated Friday, July 30, 1976, and become informed of the contents of the fourth and fifth paragraphs. From the contents of the fourth and fifth paragraphs, it is blatently obvious that the reporter is talking with the man named Cleveland.

It is obvious from the fourth and fifth paragraphs that the reporter is personally talking with the man named Cleveland and is directly quoting the man named Cleveland.

Twice the reporter meticulously attributes the information contained in the fourth and fifth paragraphs to the man named Cleveland by recording that "Cleveland said...".

Twice the reporter confirms that the man named Cleveland is imparting the information to the press that ..."McCoy had committed offenses which would be both criminal and civil in nature."

The information was given to the press by the Dallas assistant city manager Don Cleveland, and not by the appellant.

To suppress the fact that the Dallas Human Rights trial and tribunal did take place in the United States and in Dallas, Texas, United States District Judge M. L. Robinson intentionally and deliberately diverted attention from all the constitutional issues of this case by collaborating

with the Dallas city authorities and other United States authorities by making it appear in her Findings of Fact and in her Conclusions of Law that appellant had given the particular information to the press that "...McCoy had committed offenses which would be both criminal and civil in nature." In her collaboration with the Dallas city authorities United States District Judge M. L. Robinson made it appear that appellant had given this particular information to the press.

This was not relevant to the issues. This was not even relevant to the facts that the appellant was attempting to sue the Dallas city authorities for numerous violations of due process and for having subjected him to an unconstitutional trial and tribunal and for having charged him, and for having prosecuted him for "Going to the Press."

United States District Judge M. L. Robinson made it appear in her collaborated Findings of Fact and in her Conclusions of Law that the information, which had been given to the press by the Dallas assistant city manager Don Cleveland, had been given to the press by the appellant. U.S. Judge M. L. Robinson created a wrongful impression of the appellant and she suppressed the hearing rights of the appellant on all the issues of this case and she suppressed the appellant's right of Access to the Courts on all counts against the Dallas city authorities in order to suppress the fact that a Human Rights trial and tribunal did take place in the United States and she did suppress the fact that an American citizen had been subjected to trial and tribunal in the United States and charged and prosecuted for "Going to the Press."

In U. S. District Judge M. L. Robinson's court, the appellant was denied witnesses, denied a jury trial, denied Access to the court on all counts against the Dallas city authorities, denied constitutional right to a hearing on all issues, and appellant was subjected to trial at which all issues were suppressed. U. S. Judge M. L. Robinson did deprive appellant of constitutional rights including

federal protection of rights. Not only was the appellant denied federal protection of his rights but, for trying to get a hearing on the unconstitutional acts, trial and tribunal of the Dallas city authorities, the appellant was additionally subjected to the degrading treatment of being called names and of having slurring insinuations made of his ancestry in court by the lawyer for the Dallas city authorities. This was of no relevance to the constitutional issues of the trial, tribunal, and the violations of due process by the Dallas city authorities. U. S. District Judge M. L. Robinson did not even object to the deplorable conduct by the attorney for the Dallas city authorities.

> A "constitutionally unfair trial" takes place where the barriers and safeguards are so relaxed or forgotten that the proceeding is more a spectacle or trial by ordeal than a disciplined contest. U. S. v. Augenblick, 1969, 89 S. Ct. 528, 393 U. S. 348, 21 L. Ed. 2d 537

In U. S. District Judge M. L. Robinson's court, all issues which implicated the Dallas mayor and Dallas politicians in any way were suppressed; the constitutionality of an organized meeting, under color of law, of the Dallas mayor and Dallas politicians with political interests to cover up malfeasance, was suppressed; the constitutionality of their resolution, under color of law, to choose themselves judges of someone critical of their malfeasance, was suppressed; the constitutionality of the suppression of evidence, by the Dallas city authorities, of 17 years of malfeasance, was suppressed; the constitutionality of false reports to the press by the Dallas city authorities was suppressed; the constitutionality of false information to the press by the Dallas city authorities was suppressed; the constitutionality of perjury and deceptive information by the Dallas city authorities as recorded by members of the press was suppressed; the constitutionality of the charge of "Going to the Press" was suppressed; the constitutionality

of the charge being after-the-fact was suppressed; the constitutionality of the trial was suppressed; the constitutionality of the bias of the politicians as judges was suppressed; the constitutionality of the director of Defense Civil Preparedness as chairman of the tribunal was suppressed; the constitutionality of testimony without confrontation was suppressed; the constitutionality of the introduction of evidence without confrontation was suppressed; the constitutionality of a fraudulent investigation and false information to the press by Dallas city authorities before trial, was suppressed; the constitutionality of the suppression by Dallas city authorities of evidence at trial was suppressed; the constitutionality of the Dallas authorities not following rules and procedures was suppressed; the functions and missions of emergency preparedness were suppressed; the claims by the Dallas mayor and Dallas politicians were suppressed; the expenditures for civil defense and emergency preparedness were suppressed; and claims for federal funding were suppressed. All evidence including the tapes of the trial proving and confirming that appellant had been subjected to trial, tribunal, and charged with "Going to the Press" were suppressed.

The report of the trial board hearing dated October 1, 1976, in which the Dallas city secretary, Robert S. Sloan, recorded the names of Kit Bauman and Steve Israel, members of the press, as witnesses for the Dallas city authorities, was suppressed.

The contents of the Dallas Morning News article dated October 2, 1976, and written by a reporter who witnessed the trial, tribunal, and the charge of "Going to the Press" was suppressed.

The contents of the Dallas Times Herald article dated October 2, 1976, and written by another reporter who witnessed the trial, tribunal, and the charge of "Going to the Press" was suppressed.

The reason which they, the Dallas city authorities, did give to the Texas Employment Commission for their denial of unemployment compensation, was suppressed.

The Findings of Fact, Conclusions, and Decision of the Texas Employment Commission were suppressed.

Confirming conspiracy are the Findings of Fact and Conclusions of Law by U. S. District Judge M. L. Robinson which are refuted by American reporters who witnessed the trial and tribunal conducted and judged by Dallas city authorities and for which the appellant was charged and prosecuted for "Going to the Press."

The Findings of Fact and Conclusion of Law by U. S. Judge M. L. Robinson are refuted by reporter Kit Bauman who witnessed and recorded statements made to him by the Dallas assistant city manager Don Cleveland and recorded in the Dallas Times Herald, July 30, 1976.

The Findings of Fact and Conclusions of Law by U. S. Judge M. L. Robinson are refuted by reporter Henry Tatum who witnessed and recorded the charge in the Dallas Morning News, October 2, 1976.

The Findings of Fact and Conclusions of Law by U. S. Judge M. L. Robinson are refuted by reporter Kit Bauman who witnessed and recorded the charge in the Dallas Times Herald, October 2, 1976.

The Findings of Fact and Conclusions of Law by U. S. Judge M. L. Robinson are refuted by the reason which the Dallas city authorities gave to the Texas Employment Commission for refusing to pay unemployment compensation.

The Findings of Fact and Conclusions of Law by U. S. Judge M. L. Robinson are refuted by the Findings of Fact, Conclusions, and Decision of the Texas Employment Commission dated November 19, 1976.

The Findings of Fact and Conclusions of Law by U. S. Judge M. L. Robinson are not even relevant to the issues of this case and for which appellant has been denied hearing rights for four years.

The elimination at will of the democratic process in district courts in Dallas, Texas for four years and the misconduct of U. S. District Judge Robert W. Porter and U. S. District Judge M. L. Robinson invoke the supervisory jurisdiction of the Supreme Court and punishment by Congress pursuant to the Fourteenth Amendment, Section 5, supra.

Pursuant to the Fourteenth Amendment, Section 5, supra, Congress is invoked to prosecute and to punish U. S. federal authorities, Dallas city authorities and others involved in conspiracy to deny to the appellant the rights, the privileges and immunities of a United States citizen.

Pursuant to the Fourteenth Amendment, Section 5, supra, Congress is invoked to prosecute and to punish U. S. federal authorities, Dallas city authorities and others involved in conspiracy to deny to the appellant the equal protection of the laws of the Fourteenth Amendment.

Pursuant to the Fourteenth Amendment, Section 5, supra, Congress is invoked to prosecute and to punish U. S. federal authorities, Dallas city authorities and others involved in conspiracy to deny to the appellant the right to sue and the right to a hearing on all the issues of this case.

In order to suppress the occurrence of the trial and all the issues, the United States and the Dallas city authorities did violate not only the constitution, but the United Nations Charter and the Universal Declaration of Human Rights as well.

> The United Nations Charter, a treaty ratified by the United States, is part of the supreme law of this land. U. S. v. Steinberg, D.C. Ill. 1979, 478 F. Supp. 29.

Under the supreme law of the land clause of Article VI, Clause 2, U.S. Constitution, the United States has the authority to order the promulgation and treaty rights of the United Nations Charter and the support of resolutions of the United Nations. One of the purposes of the United Nations, proclaimed under Article I of the Charter, is to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.

On December 10, 1948, the General Assembly adopted the Universal Declaration of Human Rights, under which, for the first time in history, responsibility for the protection and pursuit of human rights was assumed by the international community and was accepted as a permanent obligation.

In October 1980 the United States will have concealed and suppressed this trial, all the issues of this case, and will have denied all hearing rights for four years, and will have denied, with impunity, Article 10 of the Universal Declaration of Human Rights for four years:

> Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

In connection with this case the United States and the Dallas city authorities did violate, with impunity, the Preamble and Articles 1, 2, 3, 5, 6, 7, 8, 10, 12, 17 (2), 18, 19, 20, 21 (2), 22, 23, 24, 25, 27, 28 and 30 of the Universal Declaration of Human Rights and the constitutional equivalents.

The decisions of the Supreme Court will affect the opinions which others have of the United States on the implementation of international covenants on human rights 3/

including the implementation of the Universal Declaration of Human Rights.

CONCLUSION

The Supreme Court has the authority and full power to hear this case. The appellant seeks redress previously petitioned for in the U. S. Court of Appeals for the Fifth Circuit, for the preceding four years injuries, and for the preceding four years suppression of all rights of access to the courts on all counts, and for the preceding four years suppression of a hearing on all counts against the Dallas city authorities and he asks that the Supreme Court implement constitutional remedies and Article 8 of the Universal Declaration of Human Rights:

> Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Daniel Carl Roberts

Daniel Carl Roberts,
Appellant.

FILED
DEC 20 1979
JOSEPH McELROY, JR., CLERK
BY Patricia Wren
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DANIEL C. ROBERTS,	§	
PLAINTIFF,	§	
v.	§	CIVIL ACTION NO. 3-77-1358-J
	§	
C. W. McCOY, THE CITY OF DALLAS, TEXAS, DON CLEVELAND, and GEORGE SCHRADER,	§	
	§	
DEFENDANTS.	§	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following are the Court's findings of fact and conclusions of law with respect to the trial on the merits involving Daniel C. Roberts ("Plaintiff") and C. W. McCoy, The City of Dallas, Texas, Don Cleveland and George Schrader ("Defendants").

FINDINGS OF FACT

1. Plaintiff is a white citizen of the United States of America and of the State of Texas and resides in Dallas, Texas.

2. Plaintiff was employed by the City of Dallas in the Department of Civil Defense from 1968 until August 4, 1976.

3. Defendant C. W. McCoy was at all times pertinent to this lawsuit Director of the Department of Civil Defense.

4. Defendant George Schrader was at all times pertinent to this lawsuit City Manager of Dallas, Texas.

5. Defendant Don Cleveland was at all times pertinent to this lawsuit Assistant City Manager of Dallas, Texas.

6. Defendants C. W. McCoy, George Schrader and Don Cleveland acted in good faith and within the ordinary course and scope of their employment at all times pertinent to this lawsuit.

7. A Director and eight employees comprised the Department of Civil Defense in 1976.

8. In 1976 the Department of Civil Defense personnel observed 8:00 a.m. to 5:00 p.m. working hours, except during emergencies.

9. In 1976 the Department of Civil Defense maintained a duty officer from 5:00 p.m. to 8:00 a.m. who was required to stand by his telephone in case of an emergency.

10. At 4:55 p.m. on May 26, 1976, the National Weather Service in Fort Worth, Texas, issued a tornado warning effective until 6:00 p.m. for Dallas and Ellis Counties of Texas.

11. The Department of Civil Defense did not receive the 4:55 p.m. tornado warning prior to closing its office at 5:00 p.m.

12. At 5:00 p.m. on May 26, 1976, C. W. McCoy, the assigned duty officer, left the Department of Civil Defense to return home for stand by telephone duty.

13. C. W. McCoy's car was equipped with a two-way radio for emergency communications, but the radio was later found to have been inoperable on May 26, 1976.

14. At approximately 5:20 p.m. on May 26, 1976, C. W. McCoy arrived home and began monitoring weather reports. Shortly thereafter he directed that the civil defense warning system be activated.

15. At approximately 5:25 p.m. on May 26, 1976, tornadoes touched down in the city of Dallas.

16. At approximately 5:27 p.m. on May 26, 1976, the civil defense warning system was activated.

17. Subsequent to May 26, 1976, C. W. McCoy met with Plaintiff to discuss his peformance evaluation which had declined since the previous evaluation. Plaintiff inquired whether the evaluation had racial connotations, but would not explain what he meant when questioned by McCoy.

18. On July 7, 1976, C. W. McCoy sent a memorandum to Plaintiff requesting that he explain in writing by July 16, 1976, his previous statements concerning his race. McCoy requested this information so he could update his Affirmative Action Plan if Plaintiff's reply indicated that he needed to do so.

19. On July 22, 1976, C. W. McCoy issued Plaintiff a written reprimand for insubordination for failing to provide the information requested in the July 7, 1976, memorandum.

20. On July 23, 1976, Plaintiff sent a memorandum written on City of Dallas stationary to George Schrader in which he stated:

> Regretably, Mr. C. W. McCoy of the Civil Defense Department has committed more than a few criminal and/or civil offenses and misrepresentations which reflect unfavorably upon the City of Dallas and show total disregard for the citizens of Dallas by whom he is employed.

Carbon copies were mailed to the Mayor of Dallas and to the Attorney General of Texas.

21. On July 28, 1976, Plaintiff sent a memorandum written on City of Dallas stationary to George Schrader in which he accused C. W. McCoy of desertion, incompetency and intentional neglect of duty regarding his actions on May 26, 1976. Carbon copies were mailed to the Mayor of Dallas and to the Dallas City Council.

22. On July 30, 1976, C. W. McCoy responded to Plaintiff's allegations in a written memorandum to Don Cleveland.

23. On August 1, 1976, Plaintiff sent a memorandum written on City of Dallas stationary to George Schrader in which he accused C. W. McCoy of violating the Texas Open Records Law. Carbon copies were sent to the Dallas City Council and the United States Attorney General.

24. Plaintiff disseminated copies of his memoranda concerning C. W. McCoy and the Department of Civil Defense to various media representatives, which resulted in broadcasts and publications.

25. Don Cleveland investigated the charges lodged against C. W. McCow by Plaintiff in his July 23, 1976, memorandum.

26. Don Cleveland requested Plaintiff to substantiate in writing the charges lodged against C. W. McCoy in the July 23, 1976, memorandum, which he failed to do.

27. On August 3, 1976, Don Cleveland sent a letter to C. W. McCoy stating that after an examination of the serious charges brought by Plaintiff, he had determined that Plaintiff had:

1. Not justified or documented the charges of civil and criminal offenses.
2. Delivered a chilling and indefensible assault upon you as Director of Civil Defense and upon the Civil Defense Program in Dallas.
3. Brought unjustifiable damage to the reputation of the Dallas Civil Defense program.

Mr. Cleveland concluded that Plaintiff's actions were in violation of the City of Dallas Rules of Conduct, Section 7.4(f),(g) and (k), and instructed C. W. McCoy to discharge Plaintiff.

28. Don Cleveland, rather than C. W. McCoy, made the decision to discharge Plaintiff because McCoy could not properly investigate the allegations against himself.

29. On August 4, 1976, Plaintiff received written notice from C. W. McCoy that he had been discharged by the City of Dallas, effective immediately, for bringing unjustifiable discredit to fellow employees, his supervisor and the City of Dallas in violation of the following Personnel Rules:

> Section 7.4(f) Dishonesty. Stealing, or taking City property or property of other employees without proper authorization; misuse of City of employee funds, cheating, forging, or wilfully falsifying official City reports, records, or documents, misuse of paid leave of absence; or any other falsifying action detrimental to the City or fellow employees.
>
> Section 7.4(g) Disturbance. Fighting, using profane, abusive or threatening language; unnecessary loud or boisterous language or conduct, causing injury to fellow employees through deliberate action or gross negligence; spreading false reports, or otherwise disrupting the harmonious relations between employees.
>
> Section 7.4(k) Misconduct. Any criminal offense or other conduct, including immoral conduct, during or off working hours, which could have an adverse effect on the City or the confidence of the public in the integrity of the City government, or on the relationship of the employee and other employees.

Plaintiff was also notified of his right to appeal the decision to discharge him.

30. Plaintiff appealed the decision to discharge him to the Civil Service Trial Board.

31. Following a hearing on the issue of discharge participated in by Plaintiff and his attorney, the Trial Board found that the charges set out in the letter of discharge dated August 4, 1976, should be sustained.

32. The decision to discharge Plaintiff was not prompted by Plaintiff's criticism of the Civil Defense System.

33. The decision to discharge Plaintiff was not prompted by Plaintiff's criticism of shelter supplies, i.e., water and crackers.

34. The decision to discharge Plaintiff was not prompted by Plaintiff's criticism of the manner in which the civil defense operation was being conducted.

35. The decision to discharge Plaintiff was based upon his charge that "Mr. C. W. McCoy of the Civil Defense Department has committed more than a few criminal and/or civil offenses and misrepresentations . . . ."

36. Plaintiff's charge that C. W. McCoy had committed more than a few criminal and/or civil offenses and misrepresentations was false.

37. Plaintiff's charge that C. W. McCoy had committed more than a few criminal and/or civil offenses and misrepresentations was directed at his immediate supervisor with whom he had regular contact during the course of his work.

38. Plaintiff's charge against his immediate supervisor had a disruptive influence on the regular operations of the Department of Civil Defense.

39. Plaintiff's relationship with C. W. McCoy and the Department of Civil Defense was a close working relationship requiring personal loyalty and confidence.

40. Each finding of fact herein which is a conclusion of law shall be deemed a conclusion of law.

CONCLUSIONS OF LAW

1. This court has jurisdiction to hear this cause of action.

2. Plaintiff's charge that "C. W. McCoy of the Civil Defense Department has committed more than a few criminal and/or civil offenses and misrepresentations" is not constitutionally protected speech.

3. City of Dallas Personnel Rule, Section 7.4(f), is not unconstitutionally overbroad.

4. City of Dallas Personnel Rule, Section 7.4(f), is not unconstitutionally vague.

5. City of Dallas Personnel Rule, Section 7.4(g), is not unconstitutionally overbroad.

6. City of Dallas Personnel Rule, Section 7.4(g), is not unconstitutionally vague.

7. City of Dallas Personnel Rule, Section 7.4(f), was not applied by Defendants in a manner so as to deprive Plaintiff of his rights protected by the First Amendment to the United States Constitution.

8. City of Dallas Personnel Rule, Section 7.4(g), was not applied by Defendants in a manner so as to deprive Plaintiff of his rights protected by the First Amendment to the United States Constitution.

9. Defendants did not deny Plaintiff due process under the Fourteenth Amendment to the United States Constitution.

10. Defendants did not violate the Texas Open Meetings Act, Tex. Rev. Civ. Stat. Ann. art. 6252-17 (Vernon Supp. 1978-1979).

11. Plaintiff is not entitled to any relief from Defendants.

12. All conclusions of law herein which are findings of fact are deemed to be findings of fact.

ENTERED this 20th day of December, 1979.

MARY LOU ROBINSON
United States District Judge

U. S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
DEC 20 1979
JOSEPH McELROY, JR., CLERK
BY Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DANIEL C. ROBERTS, §
PLAINTIFF, §
§ CIVIL ACTION NO. 3-77-1358-J
v. §
§
C. W. McCOY, THE CITY OF DALLAS, TEXAS, DON CLEVELAND, and GEORGE SCHRADER, §
§
DEFENDANTS. §

JUDGMENT

This action came on for trial before the court, and the issues having been duly tried and a decision having been duly rendered,

It is ORDERED and ADJUDGED that plaintiff take nothing, that the action be dismissed on the merits, and that defendants recover of plaintiff their costs of action.

ENTERED this 20th day of December, 1979.

Mary Lou Robinson

MARY LOU ROBINSON
United States District Judge

TEXAS EMPLOYMENT COMMISSION

APPEAL TRIBUNAL

TEC Building
Austin, Texas 78778

0955-Richardson

NOV 19 1976
Date Mailed

SPECIAL UNEMPLOYMENT ASSISTANC

Appeal No. 38969-SUA-76

CLAIMANT

Daniel C. Roberts
5752 Alpha Road 2114
Dallas, Texas 75240

S.S. No. 464-40-3735

ATTACHED IS THE DECISION OF THE APPEAL TRIBUNAL IN THE ABOVE-NUMBERED APPEAL WHICH WILL BECOME FINAL, UNLESS, WITHIN 10 DAYS AFTER THE DATE MAILED, FURTHER APPEAL IS MADE TO THE COMMISSION. THE LAST DAY ON WHICH YOU MAY FILE AN APPEAL TO THE COMMISSION IS NOV 29 1976.

IF YOU WISH TO REQUEST A REVIEW OF THIS CASE BY THE COMMISSION, YOU MAY FILE AN APPEAL BY WRITING DIRECTLY TO THIS OFFICE AT THE ADDRESS SHOWN ABOVE, OR YOU MAY HAVE AN APPEAL FORM COMPLETED AT ANY LOCAL COMMISSION OFFICE. PLEASE INCLUDE THE CLAIMANT'S SOCIAL SECURITY NUMBER AND THE APPEAL NUMBER IN YOUR REQUEST.

IF YOU DID NOT APPEAR AND OFFER EVIDENCE AT THE HEARING BEFORE THE APPEAL TRIBUNAL, YOU MAY REQUEST A NEW HEARING IF YOU WISH TO CONTEST THIS DECISION. YOUR REQUEST MUST BE IN WRITING, MUST GIVE THE REASONS WHY YOU WERE NOT ABLE TO APPEAR AND MUST BE MAILED OR DELIVERED TO THE ADDRESS SHOWN ABOVE WITHIN TEN (10) DAYS FROM THE DATE THIS DECISION WAS MAILED TO YOU.

Appeal Filed By: Claimant Date Appeal Filed: October 8, 1976

Date of Hearing: November 17, 1976 Place of Hearing: Richardson, Texas

Appearances:

For Claimant: Daniel C. Roberts

For Employer: Eleanor Shipman

EMPLOYER

City of Dallas
Main & Harwood
Dallas, Texas 75201

Acct. No. _____

A-1 (269)

CASE HISTORY: By a determination dated September 29, 1976, the claimant was disqualified under Section 5(b) of the Texas Unemployment Compensation Act for six weeks because the claimant was discharged for misconduct connected with his last work. The claimant appealed.

FINDINGS OF FACT: Before filing his initial claim for Special Unemployment Assistance benefits, the claimant had been employed in the Civil Defense Department of the City of Dallas. He had worked for this department since 1968. He was discharged on August 4, 1976, for publicly criticizing C. W. McCoy, the director of Civil Defense for the City.

The claimant cited several instances of McCoy's alleged incompetence and dereliction of duty. The claimant sent a memo to the City Manager's Office concerning Mr. McCoy. An investigation was made of these charges by assistant city manager, Don Cleveland. The investigation turned up nothing which supported the claimant's charges. The claimant thought the whole matter had been covered up to make McCoy and the City look good to the public. The claimant then went to the newspapers where he made his charges public. When the charges were made public, the claimant was discharged.

The City alleges that the claimant was discharged for violations of the City Code. The City appears to have relied on Section 7.4 (K). This section objects to any conduct that would cause the City of Dallas to receive adverse publicity.

Some of the charges made by the claimant were later investigated by the Federal civil defense department. The Federal investigation she showed that some of the charges were true.

The City was represented by a lady from the City personnel department. She said that the claimant had failed to follow certain established procedures in the City personnel policy for bringing a grievance against one's supervisor. She said that if the claimant had followed the procedures his job would have been protected. She said that he could have taken his grievance all the way to the City Council for a hearing.

CONCLUSIONS: See Section 5(b) of the Act on the attached form. The City was represented by no one who had first-hand knowledge of the merits of the complaints against Mr. McCoy. Based upon the evidence, I conclude that the claimant acted in good faith in trying to correct certain problems he saw in the Civil Defense System. A prohibition against creating adverse publicity against a governmental institution should not be narrowly applied. A governmental institution is a public institution supposedly dedicated to the good of all citizens. It is in the public interest that governmental deficiences be made known to the public.

In response to the City's allegation that the claimant failed to follow certain personnel procedures in voicing his complaints, I find that the claimant did make a good faith attempt to identify the problems to the

City Manager before going to the press. This indicates that the claimant was not merely seeking publicity, but that he was trying to make the City aware of certain problems within the City Civil Defense Department. The determination disqualifying the claimant will be reversed.

DECISION: The determination dated September 29, 1976, disqualifying the claimant six weeks of benefits under Section 5(b) of the Act, is reversed.

Larry C. Colyar
Appeals Referee

dw

A-1A (868)

United States Court of Appeals

FOR THE FIFTH CIRCUIT

DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
JUL 28 1980
JOSEPH McELROY, JR., CLERK
BY _____ Deputy

No. 80-1061
Summary Calendar

D. C. Docket No. CA-3-77-1358-J

DANIEL C. ROBERTS,

Plaintiff-Appellant,

versus

C. W. McCOY, THE CITY OF DALLAS, TEXAS, DON CLEVELAND and GEORGE SCHRADER,

Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Texas

Before GODBOLD, REAVLEY and ANDERSON, Circuit Judges.

J U D G M E N T

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Texas, and was taken under submission by the Court upon the record and briefs on file, pursuant to the Rule 18;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the appeal in the above styled and numbered cause be and the same is hereby dismissed;

IT IS FURTHER ORDERED that the plaintiff-appellant pay to the defendants-appellees the costs on appeal, to be taxed by the Clerk of this Court.

June 24, 1980

A13

ISSUED AS MANDATE: JUL 21 1980

A true copy
Test
Clerk, U. S. Court of Appeals, Fifth Circuit
By Brenda Hauck
Deputy
New Orleans, Louisiana JUL 21 1980

United States Court of Appeals

FIFTH CIRCUIT

GILBERT F. GANUCHEAU
CLERK

OFFICE OF THE CLERK

TEL 504-589-6514
600 CAMP STREET
NEW ORLEANS, LA 70130

July 31, 1980

Mr. Michael Rodak, Jr., Clerk
United States Supreme Court
1 First Street, N.E.
Washington, D.C. 20544

80-1061 - Daniel C. Roberts v. C.W. McCoy, et al.

Dear Sir:

Enclosed is a copy of appellant's notice of appeal received and filed in the above cause on July 30, 1980.

This Court's opinion dismissing the appeal was released on June 24, 1980.

Very truly yours,

GILBERT F. GANUCHEAU, Clerk

By _____
Richard E. Windhorst, Jr., Chief
-Judicial Support Division-A

REWJr:nb

cc: Mr. Daniel C. Roberts
Mr. Joseph G. Werner

CITY OF DALLAS

August 4, 1976
DCD 22.8

Mr. Dan Roberts, Shelter Officer
Dallas Civil Defense Department
4403 N. Central Expressway, Suite 101,
Dallas, Texas 75205

Dear Mr. Roberts:

You have brought unjustifiable discredit to your fellow employees, to your supervisor and the City of Dallas. By your actions, you have further tended to bring damage to the Civil Defense Program in Dallas. Your actions are in violation of the Rules of Conduct of the City of Dallas, Section 7.4 (f), (g), and (k). I cannot overlook the seriousness of your actions.

You are hereby discharged from employment by the City of Dallas, Civil Defense Department, effective immediately.

You have the right to appeal my decision to discharge you. Your request for appeal must be presented in writing within ten (10) days to the City Secretary.

If you fail to submit your request for appeal within ten (10) days, your discharge from employment by the City of Dallas becomes final.

Sincerely,

C. W. McCo
Director
Civil Defense

CWM:jt

cc: Mr. George Schrader
Mr. Pierson Ralph
Mr. J. W. Jones

DEPARTMENT OF CIVIL DEFENSE 4403 NORTH CENTRAL EXPRESSWAY SUITE 101 DALLAS, TEXAS 75205 TELEPHONE 214/521-4550

OATH OF OFFICE

STATE OF TEXAS:
COUNTY OF DALLAS:
CITY OF DALLAS:

I do solemnly swear (or affirm) that I will faithfully execute the duties of the office of member of the Trial Board of the City of Dallas, Dallas County, Texas, and will to the best of my ability preserve, protect, and defend the Constitution and Laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment. So help me God.

CIVIL SERVICE BOARD - CHAIRMAN

CITY COUNCIL

CITY COUNCIL

Sworn to and subscribed before me this 29TH day of SEPTEMBER, 1976.

ASSISTANT CITY SECRETARY

The Dallas Morning News Saturday, October 2, 1976

Civil Defense full review asked

By HENRY TATUM

City Council members Lucy Patterson and L.A. Murr asked Friday that a complete review be made of the Dallas Civil Defense Department and its tornado warning system.

Mrs. Patterson and Murr called for the probe after serving on the trial board hearing of a Civil Defense employe who was fired last summer for making public complaints about department director C. W. McCoy.

The trial board Friday upheld the dismissal of Dan Roberts, the former director of Civil Defense shelters who said McCoy was negligent in his duties when a tornado struck North Dallas May 26.

THE BOARD MEMBERS agreed that Roberts had followed improper procedures in releasing his complaint to the press rather than going through proper channels.

But Mrs. Patterson and Murr said testimony in the 3-day hearing showed that the Dallas Civil Defense Department must "tighten" up its procedures for handling disasters.

Murr said it is apparent the tornado was on the ground for at least two minutes before the warning sirens were sounded in Northwest Dallas.

"Two minutes is an extremely long time when a tornado is moving along on the ground," Murr said. "A lot can happen during that period."

Mrs. Patterson said she is not satisfied with the "vague" chain of command the city uses to authorize turning on the disaster alert system.

ALTHOUGH THE Civil Defense director or the city manager can request the alert, the warning officer at the police department has the final decision to "push the button," she said.

See authorization

"We need more precise lines," she added. "If indeed the sirens should have been sounded sooner, I don't want to wonder who should have directed it to be done."

Mrs. Patterson said she also is not completely satisfied with the duties assigned to McCoy as head of the Civil Defense Department.

"Under the guidelines of his job definition, he was acting properly on May 26," she said. "On that day, I believe he did what he thought should have been done."

But Mrs. Patterson still questioned McCoy's decision to leave the Civil Defense office at 5 p.m. after he had received an alert from Arlington that tornado clouds were moving rapidly toward North Dallas.

DURING THE TRIAL, McCoy testified that possible tornado formations appear over Dallas many times during certain spring months.

He said it would be wrong for him to request a warning siren every time it looked as if a tornado were going to touch down.

However, McCoy later said he has asked for revisions to current procedures which prohibit the warning officer from turning on the sirens before he has positive information a twister is on the ground.

Mrs. Patterson and Murr said they will submit their request for a review of the department to City Mgr. George Schrader.

THE DALLAS TIMES HERALD METRO Editorials / Classified

Saturday, October 2, 1976 ...

Board upholds Civil Defense worker firir

A Civil Service trial board Friday phold the firing of a former Civil De-nse employe who had accused that de-rtment's director, Col. C.W. McCoy, of desertion, incompetency, and intention-l neglect of duty."

However, City Councilwoman Lucy Patterson, a member of the trial board, aid the proceeding had raised "real questions about how the department is perated."

She said she believes it is "incumbent pon us (Mrs. Patterson and trial board nember Councilman L.A. Murr) to go o management and see to it that proce-dures are tightened up."

Attorneys for both sides agreed prior to the board hearing to confine testimo-ny to whether the charges raised by the former employe, Dan Roberts, were true.

Roberts was "indefinitely suspended" for insubordination last month after Asst. City Manager Den Cleveland in-vestigated his accusations against McCoy and found them to be groundless.

Roberts' specific charges against Mc-Coy related to the Civil Service direc-tor's conduct on May 26, when a torna-do struck near Marsh Lane and Walnut Hill at 5:22 p.m. McCoy had "ample warning" that day of a possible tornado, Roberts said, but he dismissed the entire office and left at 5 p.m. to go home.

McCoy confirmed that Wednesday in his testimony, but added that he had no authority to sound the city's emergency warning system.

That authority rests with the Warn-ing System officer on duty, and McCoy said he was in touch by telephone with that officer, Police Lt. J.P. Rodriguez, by 5:17 or 5:18 p.m., when he arrived home.

Jerry Steed, attorney for the city, said Roberts' accusations were made the day after he had received a personal repri-mand from McCoy, almost two months after the tornado.

"It's clear that Dan Roberts set out to make character assassination of Col. Mc-Coy," Steed argued before the board. In making his accusations to the media, in-stead of through channels to the city manager's office, Roberts was "appar-ently more interested in personal public-ity than in correcting any wrongs that might exist."

Russell Neiderer, attorney for Rob-erts, said Lt. Rodriguez and other Civil Defense employes had testified that they would have "stuck to the job" on the afternoon that the tornado struck.

McCoy's duties as Civil Defense direc-tor require him to notify the citizenry of "potential" disaster, Neiderer said, yet McCoy left the office even after noti-fication from Fort Worth of possible tornados in the Dallas area.

"There was a duty to stay," Neiderer said, asking that Roberts be reinstated with back pay and transferred to another city department "because it's obvious he could never work with McCoy again."

The board deliberated minutes before announcin

Cleveland said afterwa are being taken to centrali warning system with the department radio system.

Almost $500,000 has be a single system at the ne nicipal Center, he said. U sent procedure, the dis system is activated at th ment, which is on a sepa tem from the police depa provides the Warning Sys the city.

fraudulent investigation

perjury
Sec authorization—
in plan PUBLIC WARNING SYSTEM

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THE DALLAS TIMES HERALD
EDITORIALS
2—B•••• Monday, October 11, 1976, DALLAS TIMES HERALD

Civil defense operation

TESTIMONY in a hearing on the firing of a civil defense employe indicates that a complete review is needed of the Dallas Civil Defense department and its tornado warning system.

The City Council members who served on the trial board, which upheld the dismissal of Dan Roberts for using improper procedures in his criticism about the timing of tornado warnings, said that the civil defense department must tighten its procedures for handling disasters.

Councilman L. A. Murr said it is apparent that the North Dallas tornado last May 26 was on the ground for a least two minutes before the warning sirens were sounded in Northwest Dallas. Councilwoman Lucy Patterson criticized the "vague" chain of command the city uses to authorize turning on the disaster alert system.

Although the civil defense director or the city manager can request the alert, the warning officer at the police department has the final decision to push the button. Councilwoman Patterson said that more precise lines of authority are needed and new guidelines should be written to clarify the duties of the civil defense director.

City officials report that steps are already being taken to centralize the disaster warning system with the police and fire department radio systems. A single system will be established at the new Dallas municipal center, replacing the present procedure under which the warning system is activated at the fire department, which is on a separate radio system from the police department, which provides the warning system officer for the city.

Better coordination and more timely warnings should result from a thorough review of civil defense operations.

See authorization signed by Dallas city manager

A19

City Exhibit Number 18: Memo dated August 2, 1976 from C. W. McCoy to Don Cleveland regarding Dan Roberts.

City Exhibit Number 19: City of Dallas civil defense emergency operations plan.

City Exhibit Number 20: City of Dallas personnel rules 7.4(f), 7.4(g) and 7.4(k).

Mr. Steed presented the following witnesses:

Steve Israel - reporter, Dallas Times Herald
Kit Bauman - reporter, Dallas Times Herald
Juan Rodriques - Lieutenant, Dallas Police Department
Charles W. McCoy - Director, Department of Civil Defense
Don Cleveland - Assistant City Manager

Mr. Russell Neiderer, attorney for the appellant, introduced the following exhibits which were accepted and made a part of this record:

Appellant Exhibit Number 1: Weather service bulletin dated May 26, 1976.

Appellant Exhibit Number 2: Affidavit of Jeter Pruett, National Weather Service, regarding tornado warning on May 26, 1976.

Appellant Exhibit Number 3: National weather service post-storm reports for May 26, 1976.

Mr. Neiderer presented the following witnesses:

Jim Maris - Civil Defense Department
A. L. Hoebeke - Civil Defense Department
Ed Joyce - Civil Defense Department
Jermaine Thomas - Civil Defense Department
Dan Roberts - Appellant

After all of the testimony had been presented to the board and after all of the exhibits had been introduced into the record, the trial board recessed to consider the evidence.

The trial board reconvened and announced its decision as contained in the attached order.

Robert S. Sloan
Assistant City Secretary

/sj

CLAIMANT COPY

TEXAS EMPLOYMENT COMMISSION
NOTICE OF CLAIM DETERMINATION

(SEE THE REVERSE SIDE FOR YOUR APPEAL RIGHTS, EXCERPTS FROM THE ACT, AND EXPLANATION OF TERMS.)

LOCAL OFFICE 0355 SUA INITIAL CLAIM DATE 08-08-76 CONTROL DATE 08-25-76 SOCIAL SECURITY ACCOUNT NUMBER 464-46-3735

CLAIMANT'S NAME
102 DANIEL C. ROBERTS

MAILING ADDRESS
5752 ALPHA ROAD 2114
DALLAS TX 75240

IMPORTANT

THIS DETERMINATION BECOMES FINAL 12 DAYS AFTER THE DATE MAILED (SHOWN BELOW) UNLESS APPEALED BY CLAIMANT OR EMPLOYER.

DETERMINATION OF CLAIMANT'S BENEFIT RIGHTS

INITIAL CLAIM 08-08-76
YOU WERE DISCHARGED FROM YOUR LAST WORK BECAUSE YOUR ACTIONS WERE CAUSING YOUR EMPLOYER TO RECEIVE ADVERSE PUBLICITY. THIS IS CONSIDERED A DISCHARGE FOR MISCONDUCT CONNECTED WITH THE WORK. THEREFORE, YOU ARE DISQUALIFIED FOR BENEFITS UNDER SECTION 5(B) OF THE ACT FOR THE 6 BENEFIT PERIOD(S) BEGINNING AUG. 8, 1976, AND EXTENDING THROUGH SEP. 18, 1976, WHICH REDUCES YOUR BENEFITS $ 378 AND LEAVES YOU A BALANCE OF $2079 IN BENEFITS.

DETERMINATION OF EMPLOYER'S POTENTIAL CHARGEBACK

NOTICE TO EMPLOYER: IF YOU REPORTED WAGES TO THE TEXAS EMPLOYMENT COMMISSION FOR THE CLAIMANT DURING THE BASE PERIOD OF HIS CLAIM, BELOW IS THE DETERMINATION MADE IN REGARD TO YOUR POTENTIAL CHARGEBACK AS A RESULT OF THIS CLAIM.

ACCOUNT NUMBER

EMPLOYER'S NAME
CITY OF DALLAS
MAIN & HARWOOD

MAILING ADDRESS
DALLAS TX 75201

Date Mailed 09-29-76
INSURANCE DEPARTMENT

CITY OF DALLAS
CIVIL DEFENSE EMERGENCY OPERATIONS PLAN

PUBLIC WARNING SYSTEM

I. SITUATION AND MISSION

A. Situation:

1. The ATTACK WARNING originates at the national level and is received at the City of Dallas Warning Point (Police Dispatch Office) through the Texas State Warning Point. - - See Tab "C" of this Appendix.

2. The ATTENTION - - ALERT WARNING signal originates locally and is issued at the discretion of designated Dallas City government officials. - - See Tab "C" of this Appendix.

B. Mission: To provide emergency warning to the population of Dallas in the event of ATTACK on the United States, or in the event a local emergency condition makes it necessary to ALERT the population to turn on radios and TV's and listen for official local emergency information and guidance.

II. DEFINITIONS

A. Warning Officer: The Dallas Police Dispatch Office Watch Commander.

B. Warning Point: The Dallas City Police Dispatch Office.

C. ATTACK WARNING: The ATTACK WARNING alerts the population that an attack on the United States has been detected. It has only one meaning ---"take protective action immediately". It is a 3 to 5 minute wailing tone on warning sirens repeated continuously for 15 to 20 minutes, or longer, if so directed. - - See Tab "A" to this Appendix.

D. ATTENTION or ALERT Signal: The ATTENTION - ALERT Signal alerts the population to turn on radios and TV's and listen for official emergency information and guidance. It is a 3 to 5 minute steady tone on warning sirens repeated continuously for 15 to 20 minutes, or longer if necessary. See Tab "B" to this Appendix.

E. Fixed Civil Defense Sirens: These are permanently mounted sirens located throughout the City to provide warning to the maximum number of citizens possible. They are mounted at school buildings, fire stations and other City-owned facilities. The goal of this system is to provide 100% coverage of the City.

CITY EXHIBIT 19

CHANGE NOTICE ONE -1

F. Vehicular Mounted Sirens: Sirens mounted on City cars which will augment the fixed siren warning system. They will be utilized to the maximum possible extent at the time a warning is sounded.

G. Tone-Activated Radio Monitor System: A group of radio receivers that can be individually or collectively selected to receive transmissions from the Warning Point. The system provides tone-alerting, emergency voice warning, and guidance to the holder of the receiver.

H. Background Music Warning Net: A service which, through its normal system, provides instant emergency voice warning and guidance to its customers who are located in buildings where the siren tones are not normally audible.

I. National Warning System (NAWAS): A nationwide Civil Defense Warning System.

J. Emergency Broadcast System (EBS): A network entirely of non-governmental communications industry on a voluntary basis to provide the nation with a functional emergency system operated by the industry under government control consistent with National Security requirement.

I. RESPONSIBILITIES AND ACTIONS TO BE TAKEN

A. Action Prior to Execution of the PLAN:

1. Each City Department Head will prepare appropriate Standing Operating Procedure(s) [SOP] reflecting intradepartmental actions to be automatically carried out upon receipt or issuance of either the ATTACK or ATTENTION - ALERT WARNING signal. These SOP's will cover intradepartmental actions such as procedures and responsibilities of key personnel after being alerted.

2. Fixed Civil Defense siren design and installation is a joint responsibility of the Building Services Department and the Civil Defense Department. Operational readiness of sirens located at fire stations is the responsibility of the Dallas Fire Chief. Communication Services Division is responsible for the proper functioning of the electronic system of the radio-activated sirens and the Civil Defense Department is responsible for locating them at sites providing the maximum coverage.

3. Effectiveness of the background music system is a joint responsibility of the Civil Defense Director and the participating private enterprise.

4. Continued operability of vehicular-mounted sirens is a departmental responsibility.

5. Continued operability of the City-owned and operated portion of the tone-activated radio monitor system is the responsibility of the Assistant Director, Communications Services Division.

B. Actions After the PLAN is Executed:

1. Public Information: Except for the initial voice warning information issued by the Warning Officer, other public information releases shall before release, be approved by the City Manager.

2. All Clear Message: There is no "All Clear" siren signal. When the population is to be informed of an "All Clear", the following procedure will be followed:

a. All Clear (After ATTACK Warning): Local Emergency Broadcast System (EBS) radio stations will automatically inform radio listeners when the all clear message is released nationally by the President.

b. All Clear (After ATTENTION - ALERT Warning): The "All Clear" will be issued by the Warning Officer only when authorized by the City Manager. When authorized for release, the all clear will be announced by the Warning Officer over the Civil Defense tone-activated radio warning monitor system and the background music warning net. All local radio and TV stations will be requested by the Warning Officer to broadcast the "All Clear" announcement.

IV. LOGISTICS

The Civil Defense Director will budget for warning equipment (except mobile sirens). Spare parts requirements (except mobile sirens) will be submitted to the Civil Defense Director by the Fire Department and Communications Services Division.

V. CONTROL AND COMMUNICATIONS

A. Control: The Mayor, the City Manager, and the Civil Defense Director of the City of Dallas, and the Dallas Warning Officer are each authorized to direct the issuance of either of the two warning signals. - - - See Tabs "A" and "B" to this Appendix.

B. Communications: Regularly-assigned City government communication facilities, leased lines, regular telephone systems, and local radio and TV stations will be employed.

George R. Schrader
City Manager

Guidelines For Employee Discipline

City of Dallas

Personnel Department

A25

minor incident should not warrant a prolonged investigation. Written records and documents are preferable to oral recitations or opinions. Action might be justified even in cases of circumstantial evidence if all of the evidence points to the guilt of the employee alone.

An important question to be established is the matter of the employee's prior knowledge of the rule, regulation, policy or order which was violated, and the employee's prior knowledge of the consequence. It would be difficult to justify discipline for violation of a rule that the employee never heard of, or to discharge an employee for a violation that the employee had reason to believe would result in only a written reprimand. The presumption being the employee would not knowingly commit an offense that would result in discharge.

On the other hand, it is not necessary to itemize every possible violation. All employees are presumed to have sufficient common sense to know behavior which is illegal or unacceptable by society at large is not acceptable at work.

C. Suspension, Demotion and Discharge

1. In the event the supervisor considers it necessary to suspend, demote, or discharge the employee, the supervisor should recommend such action, to the next higher level of management together with the reasons therefor. An investigation should be made in which the employee is given the opportunity to respond to the charges to the department head or his designated assistant. After determining that the facts and circumstances of the particular case do warrant such action, the department head, or his designated assistant, will give the employee a written notice stating:

   a. The cause for the action; specifically what the employee did, including date, time and place.

   b. The rules, policies or procedures violated;

   c. Previous related disciplinary action, if any;

   d. The action being taken:

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Defense Civil Preparedness Agency

The Pentagon, Washington, D.C. 20301
Phone, 202-697-4484

Director	BARDYL TIRANA.
Deputy Director	(VACANCY).
Executive Assistant	ROBERT E. YOUNG.
Special Assistant to the Director	OLIVER J. WILLIFORD
General Counsel	GEORGE W. JETT.
Assistant Director for Administrative Services	WALTER A. GIRSTANTAS.
Assistant Director for Information Services	VINCENT OTTO.
Assistant Director for Plans and Operations	JOHN W. MCCONNELL.
Assistant Director for Research	JAMES O. BUCHANAN.
Comptroller	DONALD A. THOMPSON.
Education Advisor	JAMES M. RIDOWAY.
Equal Employment Opportunity Officer	CHARLES J. WARTMAN.

The Defense Civil Preparedness Agency (DCPA) was established by direction of the Secretary of Defense, and began operations May 5, 1972, as a separate agency of the Department of Defense under the direction, authority, and control of the Secretary of Defense. The Director of DCPA reports directly to the Secretary of Defense. The mission and operation of DCPA is designed to provide an effective and viable National Civil Defense Program, in accordance with the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), Executive Order 10952 of July 20, 1961, and Executive Order 11795 of July 11, 1974; and to provide planning guidance and assistance to local governments in their achievement of total disaster preparedness.

ACTIVITIES

The function of DCPA, as set out in DOD Directive 5105.43, dated July 14, 1972, is to coordinate and provide direction to the activities of Federal, State, and local governments in the development and execution of the following:

- A shelter program including evacuation and movement to shelter;
- A chemical, biological, and radiological warfare defense program;
- Steps to alert the population of enemy attack upon the United States;
- All functions pertaining to civil defense communications, including an appropriate warning network and radiological monitor reporting capability;
- Emergency assistance to State and local governments in a postattack period;
- Protection and emergency operational capability of State and local government agencies in keeping with plans for the continuity of government;
- Programs for making financial contributions to the States for civil defense purposes;
- Efforts toward a nationwide postattack assessment of the nature and extent of the damage resulting from enemy attack and the surviving resources;
- Arrangements for the donation of Federal surplus property for civil defense purposes;
- Use of a civil defense communications system for warning the affected population of impending natural disasters;
- Providing planning assistance to State and local governments in their development of preparedness plans and capabilities; and
- DCPA is also responsible for supporting programs including training and education, research and development, emergency public information, participation by industry and national organizations, and foreign civil defense liaison.

ASSISTANCE PROGRAMS

DCPA provides planning, technical training, and financial assistance, and donates Federal property to State and local governments for civil preparedness purposes.

Financial assistance includes matching funds with State and local governments up to 50 percent of the costs for, among other things: constructing Emergency Operating Centers; procurement of communications and warning and other emergency equipment; personnel and administration costs of State and local civil defense programs; student travel and per diem expenses for training in civil defense management skills at the DCPA Staff College; and education and training courses conducted by local governments for their emergency personnel.

Emergency-type equipment, such as fire and rescue trucks, communication vans, and radio systems are loaned for 5-year periods when this procedure is more economical and appropriate than cash grants.

DCPA fully funds development of Community Shelter Plans, which show locations of public fallout shelters, and tells citizens where to go and what to do in a civil defense emergency; and funds State government planning to incorporate civil defense instruction in school curricula. DCPA also funds educational seminars for local civil preparedness personnel, and simulated emergency operations exercises for local officials.

In actual emergencies, DCPA may loan, upon request, personnel to State and local civil preparedness organizations for liaison and operations purposes; and lend emergency generators and water purification and pumping systems from stockpiled equipment located at 15 depots throughout the United States.

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BIENNIAL REPORT

1958-1960

CIVIL DEFENSE

TO SERVE THE CITIZENS BY: providing for the mobilization, organization, and direction of the civilian populace and coordinating the necessary supporting agencies in Dallas to minimize the impact of any disaster, whether man-made or natural.

To provide protection from tornadoes and potential enemy attack with an early alert, a warning system was installed in 1959.

Thirty-one vehicles of the Dallas Rescue Service like the one pictured above are located in strategic locations throughout the city. This service is sponsored by voluntary organizations.

	1958-59	1959-60
BUDGET	$17,969	$29,610
EMPLOYEES	4	4

CIVIL DEFENSE

PROGRAM DESCRIPTION

Civil Defense protects persons and property from harm due to man-made or natural disaster through the training of personnel, the coordination and development of emergency operations plans, the maintenance of emergency equipment, supplies, and warning systems, and assistance in the event of a disaster. It provides for the distribution of disaster preparedness information and arranges for and administers available federal and state assistance through civil preparedness programs.

Civil Defense has a staff of eight personnel, and their offices are located at 4403 N. Central Expressway. The office observes normal 8:00 a.m. to 5:00 p.m. working hours, but in the event of an emergency will function twenty-four hours a day as long as necessary.

WORK PROGRAM TRENDS	ACTUAL 1974-75	ESTIMATED 1975-76	ESTIMATED 1976-77
Survival Training Sessions Conducted	98	65 - 70	50
Persons Trained in Civil Defense Programs	4,187	3,600	2,600
Percentage of Dallas Population Covered By the Disaster Siren Warning System	89 - 93	89 - 93	89 - 93

RESOURCE SUMMARY	ACTUAL 1974-75	ESTIMATED 1975-76	PROPOSED 1976-77
Grant Reimbursement	75,342	82,931	81,000
Other General Fund Revenue	92,788	101,177	103,280
General Fund Allocation	168,130	184,103	184,280

P.O.Box 5061
Richardson, Texas 75080
September 4, 1979

Lawrence E. Ackels
Ackels, Ackels, Ackels
Attorneys at Law
1800 Republic National Bank Tower
Dallas, Texas 75201

Dear Mr. Ackels:

In accordance with your wishes of our last telephone conversation for me to reiterate in my own writing the circumstances of our case against the Dallas city authorities I am enclosing the following information.

As you can see from the newspaper accounts Dallas politicians and city authorities arbitrarily persecuted me and arbitrarily subjected me to a trial and tribunal for Human Rights privileges while arbitrarily no Dallas officials were subjected to trial and tribunal for fraud and malfeasance. This is quite easily evidenced from the news articles written by American reporters at the Human Rights trial and tribunal staged and conducted by Dallas politicians and city authorities in Dallas, Texas in violation of international Human Rights covenants including the Helsinki Accords, the United Nations Charter and the Universal Declaration of Human Rights.

American reporters witnessed and recorded Dallas politicians and city authorities staging and conducting a Human Rights trial in Dallas, Texas. Under the guise of a civil service board hearing Dallas politicians staged and conducted a persecutory political trial and tribunal which they, themselves, conducted on their very own arbitrarily improvised and arbitrarily contrived—after the fact--arbitrary political charges of: 1. making public complaints and of 2. going to the press. These arbitrary political charges as well as their being arbitrarily invented after the fact, and the trial and tribunal are all in violation of international covenants and international agreements on Human Rights.

Regardless of how Dallas politicians and city authorities conspire to justify and conspire to cover up and conspire to divert attention, the trial and tribunal did take place. American reporters and other witnesses can testify that this trial and tribunal did take place in Dallas, Texas.

Regardless of how they conspire to rationalize or conspire to bend their legalities to serve their purposes Dallas politicians and city authorities conspired to stage and to conduct a Human Rights trial and tribunal in Dallas, Texas even though these trials and tribunals have been outlawed and condemned in every civilized country of the world. The U.S. Department of State has denounced the Soviet Union, Argentina, Venezuela, Poland and other countries of the world for the same type of trial and tribunal staged and conducted by Dallas politicians and city authorities in Dallas, Texas. Just read the news articles and you see that American reporters witnessed and recorded unlettered, untrained, biased politicians acting as judges at

a Human Rights trial here in Dallas, Texas. You know yourself that Lucy Patterson and L.A.Murr are politicians and are not legally trained judges. You know yourself that the quasi -literate Lucy Patterson does not even have a law degree and in the articles written by American reporters you see her pontificating as a judge on international issues of Human Rights incorporated by treaty and international covenants including the Helsinki Accords, the United Nations Charter and the Universal Declaration of Human Rights. You know yourself that these trial and tribunal judges had no legal qualifications as judges and you know that they are totally incompetent to judge international issues such as Freedom of Access to the Press, Freedom of Opinion, Freedom of Expression, and Freedom of Speech.

As you are aware, the former head of the Dallas Bar Association, Phil Burleson, has publicly denounced these Dallas trials and tribunals staged and conducted by Dallas politicians as "unconstitutional."

As we know, Dallas politicians and city authorities are conspiring to cover up and to divert attention from the trial and tribunal to which they subjected me and for which you are filing suit and which was witnessed and recorded by American reporters in Dallas, Texas. They are conspiring to have retroactively discharged me for other contrived reasons even though American reporters witnessed and recorded my being subjected to a trial and tribunal on their arbitrary political charges of: 1. making public complaints and of 2. going to the press.

Witnesses to the political trial and tribunal to which I was subjected and witnesses to the fact that I was discharged for 1. making public complaints and for 2. going to the press are American reporters Bob Sirkin, Steve Israel, Kit Bauman and Henry Tatum.

Other witnesses to the trial and tribunal and to the fact that I was discharged for 1. making public complaints and for 2. going to the press are Jim Maris, A.L. Hoebeke, Ed Joyce, Jermaine Thomas, Russell Meiderer, Robert S. Sloan, Sondra Eagle, Jerry T. Steed, and John De La Garze.

This Human Rights trial was not only written for newspapers but was also broadcast over television so several thousand more witnesses who viewed the trial and tribunal, and the politicians, and the fact that unqualified and inherently politically disqualified judges did discharge me for 1. making public complaints and for 2. going to the press, can be found.

In summation: 1. Dallas politicians arbitrarily did not subject any Dallas official to trial and tribunal for fraud and malfeasance. 2. This trial and tribunal was outlawed by international covenants and agreements and constitutes treaty violations and non-implementation by the United States of America of the Helsinki Accords, the United Nations Charter and the Universal Declaration of Human Rights. 3. Trial and tribunal was rigged in advance. Assistant city Manager Don Cleveland implicated politicians Lucy Patterson and L.A. Murr on several counts of conspiracy when he bragged to Phil Clements before the trial was over of the prearranged verdict. 4. Trial board members were incompetent to qualify as judges. 5. Trial board members were politicians and were politically disqualified on several c ounts.

6. Inventing after the fact charges is outlawed. 7. Inventing arbitrary charges is outlawed. 8. Inventing political restraints is outlawed. 9. Persecution by trial is outlawed. 10. American reporters not only caught Dallas politicians and city authorities in Human Rights violations but in acts of conspiracy as well.

This is the gist of our previous conversations over the past year and a half and is submitted to you in my own writing in consonance with your request.

Sincerely,

Daniel Roberts

Daniel Roberts

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore,

THE GENERAL ASSEMBLY

proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on December 10, 1948.

The rights embodied in the Declaration have been set forth in two covenants—the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights—which were adopted by the General Assembly on December 16, 1966.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and

residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject

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only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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Saturday Sept 18 & 19

Officer's suit for reinstatement may test trial board's authority

By KIT BAUMAN
Staff Writer

Attorney Phil Burleson never has thought too highly of the City of Dallas' trial board system of justice for city employes who want to appeal suspensions or outright dismissals.

It's like playing against a stacked deck, Burleson has complained, because the trial board officers — two city council members and a Civil Service Board member — are part of a chain linking them with the agencies whose decisions are being appealed.

Given the chance, Burleson would do away with the system entirely. And that's exactly what he hopes will happen when Jerry A. Nolan's suit comes to trial.

Nolan is a former Dallas police officer who was suspended indefinitely in 1973 for allegedly using unnecessary force on a prisoner. He appealed his suspension through channels — to City Manager George Schrader, then to a trial board — and lost all the way.

Earlier this week, Nolan filed suit in U.S. Dist. Judge William M. Taylor Jr.'s court, asking that the trial board's ruling upholding his suspension be overturned and that he be reinstated.

(The incident for which Nolan was indefinitely suspended by then-Police Chief Frank Dyson occurred May 5, 1973, when and a fellow officer arrested Mrs. June Sparks.

(According to the complaint, Nolan slapped Mrs. Sparks twice while escorting her to a squad car. Nolan said in his suit this week that the trial board was "arbitrary and unfair," that he was "denied his fundamental right to a fair hearing," and that the "trial board's rulings allowing the admission of extraneous materials" resulted in the suspension being upheld through "allegations of misconduct entirely unrelated to the charge" against him.)

AN ANALYSIS

Burleson, who is the attorney-of-record for the Dallas Police Association (DPA) and is representing Nolan, admits intent of the suit is much broader than merely winning reinstatement for the former police officer.

The trial board itself will be on trial, and he hopes the trial board system itself will be thrown out. A factor which makes the situation unique is that he has many supporters among those persons who have sat in judgment as trial board members.

Nothing so unsettles a city council member than to learn he or she must serve on a trial board. The hearings always are time consuming, and many council members openly have questioned whether they should participate in a court-like procedure with which most of them are unfamiliar.

Council members early this year flirted with proposing a City Charter amendment that would remove them of responsibility for sitting on the boards.

But the talks went nowhere because of a shared philosophy: City employes should have someone outside of management to hear their grievances, and the council fills that role nicely.

Alternatives were hard to come by, so the subject was dropped short of any formal vote and the council resigned itself to its duties.

That didn't end the grumbling, however. Mayor Pro Tem Adlene Harrison for one, feels trial boards occupy too much valuable time. Councilman Diel Smith agrees — he has spent as much as three days each on individual trial board cases.

CD employe accuses boss; hearing set

By KIT BAUMAN
Staff Writer

The city manager's office will hold an administrative hearing today into allegations made by a Civil Defense employe against the department's director, C.W. McCoy.

The charges, which were raised in an official letter from Dan Roberts to City Manager George Schrader, accuse McCoy of "desertion, incompetency and intentional neglect of duty."

Asst. City Manager Don Cleveland confirmed receipt of the complaint letter Thursday and said he will conduct a hearing today with McCoy and Roberts.

Cleveland said Roberts had made accusations against McCoy earlier by telephone, saying that McCoy had committed offenses "which would be both criminal and civil in nature."

"I told him that those kind of charges are not to be taken lightly, and I told him to put them in writing and send them to me," Cleveland said. Roberts' letter, dated July 28, came to his attention Thursday when a newsman showed him a copy of it. He said he had not received the original, which Roberts said he mailed to him.

Roberts' letter makes several accusations against McCoy, most of them relating to McCoy's conduct May 26 when a tornado struck a North Dallas neighborhood.

According to Roberts, McCoy was advised of tornado sightings and "had ample time to competently and thoroughly (not sloppily) check the operability of the emergency siren warning system paid for by Dallas tax-payers."

Instead, Roberts said, McCoy dismissed the entire office and left himself at 5 p.m. "to go home." The tornado touched down about 5:20 p.m. near Marsh Lane and Walnut Hill.

According to Roberts, McCoy had assigned himself the stand-by telephone duty watch beginning at 5 p.m. and ending at 8 a.m. the following day.

McCoy's "self-aggrandizing report" on the tornado to Cleveland "blames the delayed siren warning . . . on the police and fire departments, rather than on his own incompetency, dereliction of duty, and desertion of duty station," Roberts said.

"C.W. McCoy had been daring in his back office for 10 years waiting for an opportunity to blow the sirens," he said.

"When the opportunity arises, C. W. McCoy has deserted."

Dan Roberts . . .
. . . sees "incompetency"

McCoy chose Thursday not to respond to Roberts' allegations. "It may become a legal thing, so it's better not to comment right now," he said.

Roberts admitted to a "personal conflict" with McCoy, saying he had received a letter of reprimand from his supervisor.

The reprimand came, he said, when he refused to sign a letter which McCoy wanted him to sign in which he would have declared himself a minority, thereby helping the department meet minority hiring requirements.

Roberts, who is Jewish, is dark-complected and often is confused with being Mexican-American, he said.

Cleveland said he was uneasy about Roberts' allegations because of the man's admitted conflicts with McCoy and the fact that Roberts once underwent psychiatric care.

Roberts confirmed that he had sought psychiatric help "some time ago, about three years ago," for "minor depression over a divorce action."

"It's no problem in this respect," he said, referring to his charges against McCoy.

Irrelevant, defamatory, libelous, and right to sue suppressed.

EIDGENOSSISCHES JUSTIZ- UND POLIZEIDEPARTEMENT
Polizeiabteilung

DEPARTEMENT FEDERAL DE JUSTICE ET POLICE
Division de police

DIPARTIMENTO FEDERALE DI GIUSTIZIA E POLIZIA
Divisione di polizia

No. N 77 924 bu/san

Bitte in der Antwort angeben
A indiquer dans la réponse
Pregasi ripeterlo nella risposta

3003 Bern, 9. September 1977

Herrn
Daniel Roberts
5752 Alpha Road 2114

Dallas, Texas 75240
U S A

Sehr geehrter Herr Roberts,

Wir beziehen uns auf Ihr Schreiben vom 22. August 1977. Mit Ihren neuerlichen Ausführungen machen Sie nach wie vor nicht glaubhaft, dass in Ihrem Fall Gründe bestehen, die zur Asylgewährung Anlass geben könnten. Wir können Ihnen deshalb keinen anderen Bescheid als in unserem Brief vom 3. August 1977 geben.

Wir nehmen an, dass es Ihnen möglich sein wird, in einem demokratischen Rechtsstaat wie die Vereinigten Staaten von Amerika, nötigenfalls durch Anrufung der zuständigen Gerichte, Ihre Probleme zu lösen und zu Ihrem Recht zu kommen.

Mit vorzüglicher Hochachtung
EIDGENOESSISCHE POLIZEIABTEILUN

NO. 80-5427

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

DANIEL C. ROBERTS,

Appellant,

VS.

C. W. McCOY, THE CITY OF DALLAS, DON CLEVELAND AND GEORGE SCHRADER,

Appellees.

On Appeal from the United States Court of Appeals for the Fifth Circuit

MOTION TO DISMISS OR AFFIRM

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MOTION TO DISMISS OR AFFIRM

TO THE HONORABLE JUSTICES OF SAID COURT:

C. W. McCoy, the City of Dallas, Don Cleveland and George Schrader, the appellees, respectfully move the Court to dismiss this appeal or to affirm the judgment of the court of appeals, for the reason that the questions on which the appeal is predicated are so

unsubstantial as not to need further argument.

STATEMENT OF THE NATURE OF THE CASE

This is a civil rights case in which a public employee contended that he was discharged in violation of his right of free speech after he publicly accused his immediate supervisor of criminal misconduct.

PROCEEDINGS IN THE COURTS BELOW

This action was tried by the district court without a jury. Findings of fact and conclusions of law were made by the court and judgment was rendered against the employee. The employee appealed that judgment to the Court of Appeals for the Fifth Circuit. The court of appeals summarily dismissed that appeal. Roberts v. McCoy, 621 F.2d 439 (Table) (5th Cir. 1980).

STATEMENT OF FACTS

The appellant did not order a transcript of the proceedings in the district court, did not serve on the appellees the statement of issues

required by Fed.R.App.P. 10(b)(3) and did not seek an agreed statement pursuant to Fed.R.App.P. 10(d). The only facts before the court of appeals were those stated by the district court in its findings of fact.

SUMMARY OF ARGUMENT

The appellant did not challenge any finding, conclusion, or evidentiary or procedural ruling of the district court and the court of appeals correctly dismissed the appeal.

ARGUMENT

The appellant did not challenge any finding or conclusion of the district court, and the appeal properly was dismissed. See Fed.R.Civ.P. 52(a); Fed.R.App.P. 28(a)(4); Chicago and Western Indiana R. Co. v. Motorship Buko Maru, 505 F.2d 579, 581 (7th Cir. 1974); and Holt v. Sarver, 442 F.2d 304, 307 (8th Cir. 1971). The appellant does not contend that the court of appeals erred.

CONCLUSION AND PRAYER

The appellant did not raise any issue for determination by the court of

appeals and the appeal properly was dismissed. No error of the court of appeals has been alleged by the appellant, and the decision of the court of appeals should be affirmed or this appeal dismissed.

Respectfully submitted,

JOSEPH G. WERNER
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1500 Marilla Street
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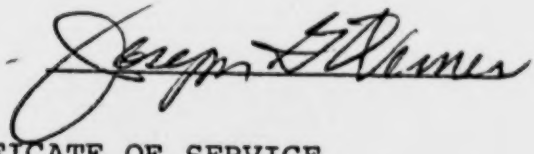
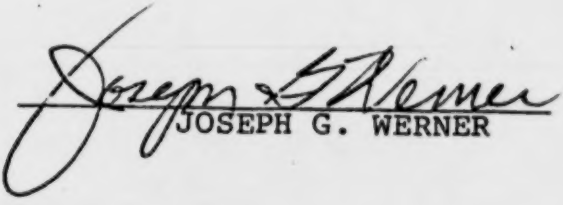
670-3774



CERTIFICATE OF SERVICE

A copy of the foregoing brief was served by mail on Daniel C. Roberts, appellant pro se, on the 17th day of October, 1980.



JOSEPH G. WERNER

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